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SUBJECT: LEGAL THREATS AGAINST DOWNLOADERS PROVOKE ANIMATED
RESPONSE

11. (U) Summary: Recent events involving local anime
(Japanese animation) distributor Odex highlight that
Singapore is still struggling with certain facets of
promoting and protecting intellectual property rights (IPR).
Following a difficult enforcement campaign, Odex announced
September 5 it would not take action against Internet users
it had accused of illegally downloading copyrighted material.
Odex's decision came after a judge on August 23 did not
compel Internet service provider (ISP) Pacific Internet
(PacNet) to release the names of subscribers suspected of
illicit downloading. Different judges had previously ruled
that two other Singaporean ISPs must turn over lists of
subscribers to Odex. End summary.

Background

12. (U) Singapore prides itself on having an IP enforcement
regime that is arguably the strongest in the region, and it
acknowledges the role its commitments under the
U.S.-Singapore Free Trade Agreement have played in this
process. The government runs a highly visible campaign that
urges young people to "honor intellectual property," and
overall physical piracy rates are dropping. However, file
sharing via the Internet and other electronic means is
rising, according to industry representatives.

Tokyo, We Have a Problem

13. (U) Odex conducted a six-month monitoring program in 2006
that uncovered more than 400,000 instances of illegal anime
downloads in Singapore, CEO Stephen Sing told us recently.
After reviewing the results of the study, an industry group
comprised of Japanese anime companies authorized Odex to take
action on behalf of its members, he said. In May 2007, Odex
filed applications asking the Singapore court to compel the
country's three ISPs -- Pacific Internet (PacNet), Singapore
Telecommunications (SingNet), and StarHub -- to reveal the
names of subscribers that Odex believed were involved in
illegal downloading.

A Surprise in Mailbox

14. (SBU) The SingNet and StarHub cases concluded quickly in

favor of Odex. The company began sending out letters that contained an offer to settle out of court for sums ranging from S\$3000 to S\$5000 (US\$2000 to US\$3300). Approximately 40 percent of letter recipients, or their parents, had already complied with the terms of the letter, according to Sing. Odex used all monies collected to defray associated administrative costs. Sing asserted that neither Odex nor the companies it represented had profited from the campaign.

PacNet--Odd Man Out

15. (SBU) Unlike the SingNet and Starhub cases, the PacNet case did not conclude for several months, and the judge eventually ruled against Odex. He questioned whether Odex was the correct party to act on behalf of the rights holders. Odex's attorney said he was surprised by the judge's reasoning, in particular because PacNet had not raised this issue during the hearing. Furthermore, both SingNet and StarHub had pursued this line of defense, which was rejected by two other judges. Odex's attorney speculated that backlash after the first rulings might have affected the judge's decision in the PacNet case.

Revenge of the Nerds

16. (U) Odex's actions went relatively unnoticed by the general public until Sing made statements online in early August to the effect that suing people was consuming all of his time. His comments roiled the anime community, which up to that point had limited its reaction to chat room rants and relatively benign anonymous e-mails, according to Sing. After Sing's comments, the attacks turned personal.

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Detractors began posting pictures of him and his wife and issuing death threats. Sing turned to the police, and the local media began covering the story in depth.

Trial by Press

17. (SBU) A Straits Times (ST) newspaper columnist recently penned several articles that appear to favor the downloaders. (Note: ST is owned by Singapore Press Holdings, a private company with close ties to the government. End note.) The writer at first questioned whether the "fair use" provision of Singapore's Copyright Act might exonerate the accused. A regional representative of the International Federation of the Phonographic Industry (IFPI) described this line of defense as "ridiculous." The ST columnist then changed tactics and wrote two articles suggesting that privacy should take precedence over "narrow interests", i.e., intellectual property rights. Odex's attorney called the articles "very irresponsible," and questioned ST's decision not to publish any of the counter-arguments Odex and AVPAS had submitted to the newspaper.

Comment

18. (SBU) The GOS has been known to use Singapore's tightly controlled press to address problems and gauge public interest before announcing policy decisions via a carefully orchestrated outreach. The reluctance of its media to run articles fully debating the downloading issue suggests ambivalence in certain quarters about how far IPR enforcement against individual users should extend. We will closely monitor whether the recent ST articles translate into backpedaling on Singapore's enforcement of its IPR commitments under the FTA.

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